

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	No. 1:05CR43 CDP
)	
THOMAS J. FARQUHAR,)	
)	
Defendant.)	

MEMORANDUM AND ORDER

This matter is before the Court on defendant Thomas J. Farquhar's motion to suppress statements and evidence. Pursuant to 28 U.S.C. § 636(b), the motion was referred to United States Magistrate Judge Lewis M. Blanton. An evidentiary hearing was held on May 11, 2005, and thereafter Judge Blanton filed his Report and Recommendation, which recommended that the motions be denied. Defendant has filed objections to the recommendations.

I have conducted a de novo review of all matters relevant to the motions, including listening to the recording of the hearing and reviewing the exhibits. After careful consideration, I will overrule defendant's objections and will adopt and sustain the thorough reasoning of Magistrate Judge Blanton set forth in support of his recommended rulings issued on June 22, 2005.


I find that the factual statements and legal conclusions in the report and recommendation are correct. The evidence shows that defendant was not in custody either when he was questioned at his grandmother's house or when he voluntarily appeared at the police station and answered questions. Since he was not in custody, the court need not resolve the conflicting testimony regarding whether the Miranda warnings were given before or after defendant was questioned at the police station. Additionally, the evidence shows that all statements were voluntarily made, and that defendant consented to the search of his truck. Finally, defendant's wife had authority to consent to the seizure of the safe in which the guns were stored, and defendant and his father later provided the key to the safe so it could be searched at the police station.

I have carefully reviewed all the evidence and have considered all the arguments made by both parties in their several memoranda, and I conclude that none of the statements nor any of the physical evidence was obtained in violation of any of defendant's rights, so the evidence should not be suppressed.

Accordingly,

IT IS HEREBY ORDERED that the Report and Recommendation of the United States Magistrate Judge [#25] is **SUSTAINED, ADOPTED, and INCORPORATED** herein.

IT IS FURTHER ORDERED that defendant's motion to suppress statements and evidence [#16] is denied.



CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

Dated this 17th day of August, 2005.